IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

CRL.A.No. 334 of 2001()

ST.6507/1997 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA.
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APPELLANT: COMPLAINANT

GANESAN, S/O.KUNJITTY, PALACKAL HOUSE, KALLETTUMKARA VILLAGE, AASARI MOOLA DESOM, MUKUNDAPURAM TALUK.

BY ADV. SRI.T.N.MANOJ
SRI.DINESH R.SHENOY

RESPONDENTS: ACCUSED & STATE
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1. ROSH, S.O.RAVI, THEKKETHALA HOUSE, AASARI MOOLA DESOM, KALLETTUMKARA VILLAGE, MUKUNDAPURAM TALUK.

2. THE STATE OF KERALA.

(ADDRESS OF THE RESPONDENT IS AS SHOWN ABOVE)

BY PUBLIC PROSECUTOR SRI.AMJAD ALI.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.334 of 2001

Dated this the 2nd day of August, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 31.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl